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March 15, 1983

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Mr. Charles E. Sova
Assistant Commissioner
Department of Safety
Hazen Drive
Concord, New Hampshire 03301

Re: Disposition of Funds Held in Out-of-State
Conviction Surety Account

Dear Mr. Sova:

You have asked whether the sum of \$900, paid to the department on recognizance by persons appealing out-of-state convictions of certain motor vehicle offenses, may be transferred to the state treasury. The funds to which you refer were apparently paid to the department under RSA 262-A:65-a, which was repealed and replaced essentially intact by RSA 263:69 during the 1982 recodification of the motor vehicle laws.

The provisions of RSA 471-A:9 notwithstanding, to the extent funds collected by the department under RSA 262-A:65-a constitute funds deposited to secure good behavior pending an out-of-state appeal which were subsequently forfeited by the depositor, they may be remitted to the treasurer under the express provisions of RSA 260:23 (previously RSA 262:35).

I am uncertain why the department's account for such deposited funds has remained inactive for a substantial period of time, and ripe for "closing out" in the view of the Legislative Budget Assistant's Office, as the statutory provision for these recognizances clearly remains in effect. However, deposits to the department under RSA 263:69 and its predecessors may have been considerably reduced by the amendment in 1973 which removed DWI



offenses from the provision's coverage and limited it to convictions for reckless operation. I would simply observe that any sums deposited in the future under RSA 263:69 and subsequently forfeited may, of course, continue to be remitted to the treasurer under RSA 260:23.

If additional questions arise, please let me know.

Very truly yours,

Betsy S. Westgate

Betsy S. Westgate
Assistant Attorney General
Division of Legal Counsel

BSW:ab
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